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FILED
MAY 2 1947
CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1946

No. 1100

UNITED STATES OF AMERICA, Appellant

v.

LIONEL PALLETZ

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

PETITION FOR RECONSIDERATION OF THE COURT'S ORDER OF APRIL 7, 1947, REVERSING THE JUDGMENT OF THE DISTRICT COURT, AND FOR ALLOWANCE OF HEARING OF APPEAL.

EARL JAY GRATZ,
Counsel for Appellee,
1421 Chestnut Street,
Philadelphia 2, Pa.

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The appellee moves the Court to reconsider its per curiam order of April 7, 1947, reversing the judgment of the District Court, and moves this Court to grant appellee a hearing in the above captioned appeal and opportunity to appellee to submit brief and oral argument on appeal, for the following reasons:

1. The Court erred in reversing the judgment of the District Court solely upon a jurisdictional statement filed by appellant, without granting any hearing to appellee,

without the filing of statement of points to be relied upon and designation of record by appellant, without brief by appellant or appellee, and without an opportunity to appellee to submit oral argument.

2. On March 28, 1947, appellee's counsel received by mail from the Acting Solicitor General of the United States the Statement of points to be relied upon and designation of record, proposed to be filed by appellant in this appeal, to which acceptance of service and approval by appellee was sought. On April 4, 1947, appellee by his counsel notified the Acting Solicitor General of appellee's intention to file a motion to dismiss the appeal because the appeal was not filed within the time prescribed by statute. This notice was intended to afford appellant opportunity to amend appellant's proposed Statement to include the question that would be raised by motion to dismiss the appeal. Before the Acting Solicitor General had replied to appellee, and without any Statement of points to be relied upon and designation of record having been filed, this Court entered its order of April 7, 1947, to the substantial prejudice of appellee, in that appellee was not only prevented from having this Court consider motion to dismiss the appeal but was also denied hearing on the merits of the appeal.

3. Inasmuch as the judgment of the District Court was rendered in a criminal proceeding against appellee and the judgment dismissed the criminal information against appellee, the reversal of that judgment without hearing, to the great prejudice of appellee, constitutes a denial of due process.

EARL JAY GRATZ,
Counsel for Appellee.

I certify that the foregoing petition is presented in good faith and not for delay.

EARL JAY GRATZ,
Counsel for Appellee.